Data Gleaned from the Department of Defense 2018 Annual Report on Sexual Assault in the Military

Case Depositions Completed in 2018[g]

Case depositions completed 2018	**482**
Proceeded to trial	**307 (64%)**
Discharge or Resignation in lieu of trial	**90 (19%)**
Charges dismissed	**85 (18%)**

Proceeded to Trial for 2018

Proceeded to trial	**307**
Convicted of any charge	**203 (66%)**
Acquitted of all charges	**104 (34%)**

Proven vs. Unproven for all Case Dispositions for 2018

Case depositions completed this year	**482**
Proven (convicted of any charge)	**203 (42%)**
Unproven (acquitted, discharged, or dismissed)	**279 (58%)**

Total Proven Guilty for All Unrestricted Reports for 2018

Completed unrestricted reports this year	**4002**
Proven guilty for all unrestricted this year	**203 (5%)**

a. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **20<u>18</u>**: Appendix B: Statistical Data on Sexual Assault. **Page 14 and 24.**

Page 26
Court-Martial Charges Preferred for Sexual Assault Charge – 668 Case Dispositions

Penetrating Offence Charged – 437 Case Dispositions (65%)
113 cases not completed in FY18 (26%)
63 Dismissed Cases (19%)
209 Proceeded to Trial (65%)
52 RILO/DILO (16%)
Attempts to Commit Charges – 2 cases (0.2%)

324 cases for Penetration Offenses were completed in FY18
63 cases (19%) were dismissed.
209 cases (65%) proceeded to trial.
Of the cases that went to trial 123 cases (59%) were convicted of <u>some</u> charge.
86 cases (41%) were acquitted.
52 cases (16%) resolved with RILO/DILO

Of trials involving Penetrating Charges that resulted in conviction (123 cases), there were:
- 71 convictions for a penetrating offense (58%)
- 12 convictions for Sexual Contact offenses (10%)
- 40 convictions for Other Offense (33%)

205 cases for Sexual Contact Offenses were completed in FY18
22 cases were dismissed (14%)
97 cases proceeded to trial (62%)
Of the cases that went to trial, 79 cases (81%) were convicted of <u>some</u> charge.
18 cases (19%) were acquitted.
37 cases were resolved with RILO/DILO (24%)

Of trials involving Sexual Contact charges that resulted in conviction (79 cases), there were:
- 28 convictions for Sexual Contact (35%)
- 51 convictions for Other Offense (65%)

When we combine convictions for Penetration (123 cases) or Sexual Contact (79 cases):
We get 202 total convictions. (123 penetration + 79 sexual contact = 202)
There was a total of 71 convictions for penetrating offenses (35%).
There were 40 convictions for penetrating offenses (20%)
There were 91 convictions for other offenses (45%)

So, in trials involving charges of penetration or sexual contact (202 completed trials) in FY18 <u>that resulted in conviction</u>:
111 (55%) were convicted of penetration or sexual contact.
91 (45%) were convicted of <u>lesser</u> charges.

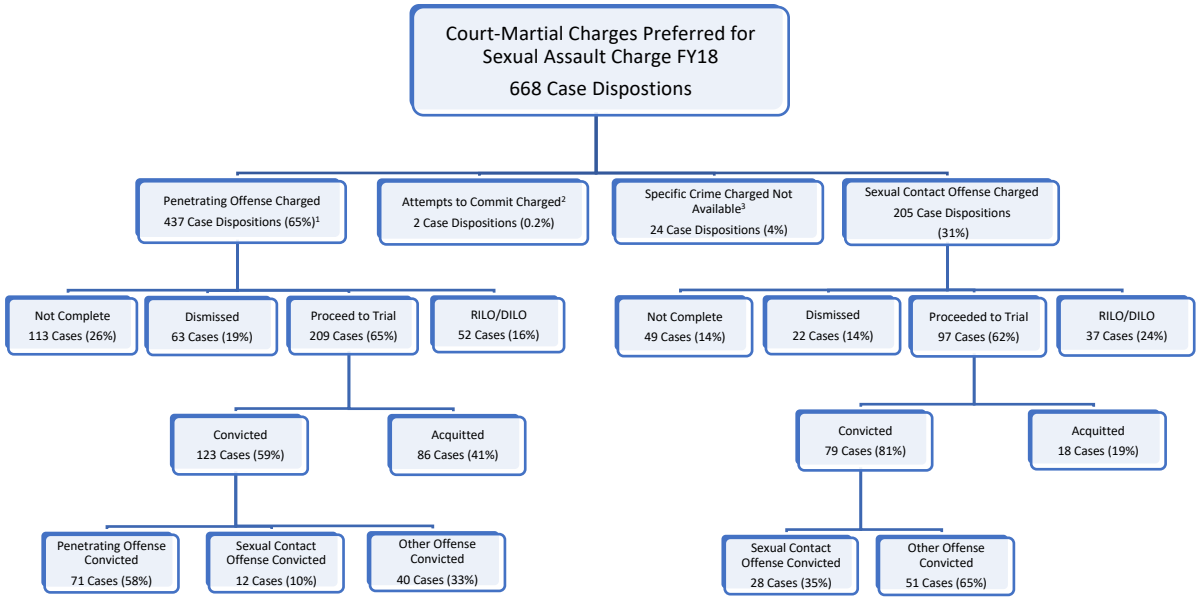

Figure 13. Dispositions of Cases with Sexual Assault Court-Martial Charges Preferred by Crime Charged, FY18

Notes:

1. Percentages for some categories do not sum to 100 percent due to rounding. Punishments do not sum to 100 percent because subjects can receive multiple punishments.
2. One allegation for an attempt to commit a sexual assault was charged, proceeded to trial, and convicted at court-martial. The other allegation for an attempt to commit a sexual assault resulted in a resignation/discharge in lieu of court-martial.
3. In FY18, 24 cases were preferred for court-martial, but the crime charged data was incomplete. These cases are pending and will be reported out next FY.

Table 4. Case Dispositions Reported in FY18 (p.18)

Case Disposition Category	Count of Case Dispositions	Share of Case Dispositions
Sexual Assault Investigation That Can Be Considered for Possible Action by DoD Commanders	1,854	N/A
Evidence Supported Command Action	1,845	65%
Sexual Assault Offense Action	1,211	66%
Court-Martial Charge Preferred (Initiated)	668	55%
Nonjudicial Punishment (Article 15, UCMJ)	267	22%
Administrative Discharge	118	10%
Other Adverse Administrative Action	158	13%
Non-Sexual Assault Offense Action	634	34%
Court-Martial Charge Preferred (Initiated)	72	11%
Nonjudicial Punishment (Article 15, UCMJ)	339	53%
Administrative Discharge	96	15%
Other Adverse Administrative Action	127	20%
Unfounded by Command/Legal Review	74	3%
Commander Action Precluded	935	33%
Victim Died	0	0%
Victim Declined to Participate in the Military Justice Action	173	19%
Insufficient Evidence to Prosecute	735	79%
Statute of Limitations Expired	27	3%

Note: Victims who were assaulted by multiple subjects are counted only once to correspond with the subject who received the most serious disposition.

Evidence Supported Command Action (p.21)

In 1,845 cases, commanders had sufficient evidence and the legal authority to support some form of disciplinary action for an alleged sexual assault offense or other misconduct (Figure 9, Point S). When a subject in an investigation receives more than one disposition, DoD reports only the most serious disciplinary action. The possible actions, listed in descending order of severity, are court-martial charges preferred, nonjudicial punishment, administrative discharge, and other adverse administrative action.

The following outlines the command actions taken in the 1,211 cases for which it was determined a sexual assault offense warranted discipline:

- 55 percent (N=668) of cases were associated with court-martial charges preferred (initiated).
- 22 percent (N=267) of cases entered proceedings for nonjudicial punishment under Article 15 of the UCMJ.
- 23 percent (N=276) of cases received an administrative discharge or other adverse administrative action.

In 634 cases, evidence supported command action for other misconduct discovered during the sexual assault investigation (e.g., making a false official statement, adultery, underage drinking, or other crimes under the UCMJ), but not a sexual assault charge. Command actions for these cases follow below:

- 11 percent (N=72) of cases were associated with court-martial charges preferred.
- 53 percent (N=339) of cases entered proceedings for nonjudicial punishment.
- 35 percent (N=223) of cases received an administrative discharge or other adverse administrative action.

Military Justice (p.21)
The information in this section describes the process that follows a military subject's commander having sufficient evidence to take disciplinary action (Figure 11). Each action taken is based on the evidence identified during a thorough investigation. In addition, since June 2012, initial disposition decisions for the most serious sexual assault crimes have been withheld to the O-6 level (Colonel or Navy Captain), who is also at least a Special Court-Martial Convening Authority (SPCMA). This allows more senior officers to review and decide which initial action should be taken in these cases.

Court-Martial for a Sexual Assault Offense (p.22-23)
As noted previously, 668 cases involved court-martial charges preferred. Figure 12 illustrates what happened to these cases after their commanders preferred court-martial charges. Of the 668 cases with a preferral of court-martial charges for at least one sexual assault charge in FY18, the Military Services completed 482 court-martial outcomes by the end of the FY.

Of the 307 cases that proceeded to trial, 203 (66 percent) resulted in a conviction of at least one charge at court-martial. That conviction could have been for a sexual assault offense or for any other misconduct charged. Most convicted Service members received at least four kinds of punishment: confinement, reduction in rank, fines or forfeitures, and a discharge (enlisted) or dismissal (officers) from service. In FY18, 108 subjects of a sexual assault offense were required to register as a sex offender by law. According to the UCMJ, Service members convicted of a sexual assault who do not receive a punitive discharge at court-martial must receive an administrative discharge. In FY18, the Military Services processed 28 convicted subjects that did not receive a punitive discharge or dismissal for administrative separation from Military Service.

Court-martial charges in 85 cases were dismissed; however, commanders used evidence gathered during the sexual assault investigations to impose nonjudicial punishment for other misconduct in 12 of the 85 cases. The punishment may have been for any kind of misconduct for which there was evidence. Five subjects who received nonjudicial punishment for other misconduct after court-martial charges were subsequently discharged from military service.

DoD approved 89 cases for a resignation or discharge in lieu of court-martial (RILO/DILO) and 1 case was approved for cadet/midshipman disenrollment in lieu of court-martial. In FY18, all DILO cases involving enlisted members received a separation Under Other Than Honorable Conditions (UOTHC), the most serious administrative characterization of discharge possible. The UOTHC discharge characterization is recorded on a Service member's DD Form 214, Record of Military Service, and significantly limits separation and post-service benefits from DoD and the Department of Veterans Affairs.

DoD grants requests for RILO/DILO in certain circumstances, occurring only after court-martial charges are preferred against the accused. For such an action to occur, the accused must initiate the process. Requests for a RILO/DILO must include:

- A statement of understanding of both the offense(s) charged and the consequences of administrative separation;
- An acknowledgement that any separation could possibly have a negative characterization;
- An acknowledgement that the accused is guilty of an offense for which a punitive discharge is authorized or a summary of the evidence supporting the guilt of the accused.

These statements are not admissible in court-martial should the request ultimately be disapproved. DILOs involving enlisted personnel are usually approved at the SPCMA level. The Secretary of the Military Department approves RILOs. Figure 12 presents the case outcomes for which court-martial charges were preferred and Figure 13 shows the outcomes by the type of crime charged (i.e., penetrating versus sexual contact crimes).

Nonjudicial Punishment (p.26)
Commanders administer nonjudicial punishments in accordance with Article 15 of the UCMJ, which empowers commanding officers to impose penalties on Service members when there is sufficient evidence of what the law considers to be a relatively minor offense under the UCMJ. Nonjudicial punishment allows commanders to address some types of sexual assault and other misconduct by Service members that may not warrant prosecution in a military or civilian court. Some of the corrective actions within a commander's purview to administer include demotions, forfeitures, and restrictions on liberty. Nonjudicial punishments may support a rationale for administratively discharging military subjects with a less than honorable discharge. The Service member may demand trial by court-martial instead of accepting nonjudicial punishment by the commander, unless the subject is attached to or embarked on a vessel.

Of the 1,211 cases dispositions that were associated with disciplinary actions on a sexual assault offense, 267 cases were addressed with nonjudicial punishment. Figure 14 displays the outcomes of nonjudicial punishment actions taken against subjects on a sexual assault charge in FY18. In FY18, 86 percent of the 207 cases with completed nonjudicial punishment proceedings were associated with guilty verdicts under the authority of Article 15 in the UCMJ. Nearly all the administered nonjudicial punishments were for sexual contact offenses. Most cases with a nonjudicial punishment received the following punishments: a forfeiture of pay, reduction in rank, and/or extra duty. Available Military Service data indicated that for 74 cases the nonjudicial punishment served as grounds for a subsequent administrative discharge.

Characterizations of the 74 discharges are outlined below.

Honorable	5 Cases
General	33 Cases
Under Other Than Honorable Conditions	24 Cases
Uncharacterized	12 Cases
Total:	74 Cases

Administrative Discharges and Adverse Administrative Actions (p.27**)**
A legal review of evidence sometimes indicates that the court-martial process or nonjudicial punishments are not appropriate means to address allegations of misconduct against the accused. However, commanders have other means at their disposal to hold alleged offenders appropriately accountable. Commanders may use an administrative discharge to address an individual's misconduct, lack of discipline, or poor suitability for continued military service. There are three characterizations of administrative discharges: Honorable, General, and UOTHC. General and UOTHC discharges may limit those discharged from receiving full entitlements and benefits from both DoD and the Department of Veterans Affairs. In FY18, 118 cases in sexual assault investigations were associated with an administrative discharge.

Characterizations of the discharges are outlined below.

Honorable	0 Cases
General	36 Cases
UOTHC	48 Cases
Uncharacterized	24 Cases
Pending	10 Cases
Total:	118 Cases

In FY18, commanders took adverse administrative actions in 158 cases that were investigated for a sexual assault offense. Commanders typically use adverse administrative actions when available evidence does not support a more severe disciplinary action. Adverse administrative actions can have a serious impact on a Service member's military career, have no equivalent form of punishment in the civilian sector, and may consist of Letters of Reprimand, Letters of Admonishment, Letters of Counseling, or discharge. These actions may also include, but are not limited to: denial of re-enlistment, cancellation of a promotion, and cancellation of new or special duty orders.

Probable Cause Only for a Non-Sexual Assault Offense (p.28)
Sometimes the sexual assault investigations conducted by MCIOs do not find sufficient evidence to support disciplinary action against the subject on a sexual assault charge but do uncover other forms of chargeable misconduct. In FY18, commanders took action in 634 cases that MCIOs originally investigated for sexual assault allegations, but for which evidence only supported action on non-sexual assault misconduct, such as making a false official statement, adultery, assault, or other crimes (Figure 15).

Figure 12. Case Dispositions w Sexual Assault Charges Preferred FY18 (p.24)

Case Disposition Category	Count of Case Dispositions	Share of Case Dispositions
Court-Martial: Sexual Assault Charges Preferred in FY18	668	N/A
Case Dispositions Completed in FY18	482	
Case Dispositions Not Completed in FY18 (to be reported in the future)	186	
Evidence Supported Command Action		
Evidence Supported Command Action		
Evidence Supported Command Action		
Evidence Supported Command Action		
Court-Martial Charge Preferred (Initiated)		
Nonjudicial Punishment (Article 15, UCMJ)		
Administrative Discharge		
Other Adverse Administrative Action		
Non-Sexual Assault Offense Action		
Court-Martial Charge Preferred (Initiated)		
Nonjudicial Punishment (Article 15, UCMJ)		
Administrative Discharge		
Other Adverse Administrative Action		
Unfounded by Command/Legal Review		
Commander Action Precluded		
Victim Died		
Victim Declined to Participate in the Military Justice Action		
Insufficient Evidence to Prosecute		
Statute of Limitations Expired		

Note: Victims who were assaulted by multiple subjects are counted only once to correspond with the subject who received the most serious disposition.

Data Gleaned from SAPR Annual Reports

	2012[a]	2013[b]	2014[c]	2015[d]	2016[e]	2017[f]	2018[g]	Totals
Case depositions completed this year	460	707	735	813	619	663	**482**	4,479
Proceeded to trial	302 (66%)	484 (68%)	496 (67%)	543 (67%)	389 (63%)	406 (61%)	**307 (64%)**	2,927 (65%)
Discharge or Resignation in lieu of trial	70 (15%)	90 (13%)	90 (12%)	159 (22%)	133 (22%)	152 (23%)	**90 (19%)**	784 (17%)
Charges dismissed	88 (19%)	133 (19%)	149 (28%)	111 (14%)	97 (16%)	105 (16%)	**85 (18%)**	768 (17%)

Proceeded to Trial for that Year

	2012[a]	2013[b]	2014[c]	2015[d]	2016[e]	2017[f]	2018[g]	Totals
Proceeded to trial	302	484	496	543	389	406	**307**	2,927
Convicted of any charge	238 (79%)	370 (76%)	359 (72%)	413 (76%)	261 (67%)	284 (70%)	**203 (66%)**	2,128 (72%)
Acquitted of all charges	64 (21%)	114 (23%)	137 (28%)	130 (24%)	128 (33%)	122 (30%)	**104 (34%)**	799 (27%)

Proven vs. Unproven for all Case Dispositions for that Year

	2012[a]	2013[b]	2014[c]	2015[d]	2016[e]	2017[f]	2018[g]	Totals
Case depositions completed this year	460	707	735	813	619	663	**482**	4,479
Proven (convicted of any charge)	238 (52%)	370 (52%)	359 (49%)	413 (51%)	261 (42%)	284 (43%)	**203 (42%)**	2,128 (47%)
Unproven (acquitted, discharged, or dismissed)	222 (48%)	337 (48%)	376 (51%)	400 (49%)	358 (58%)	379 (57%)	**279 (58%)**	2,351 (53%)

Total Proven Guilty for All Unrestricted Reports for that Year

	2012[a]	2013[b]	2014[c]	2015[d]	2016[e]	2017[f]	2018[g]	Totals
Completed unrestricted reports this year	1,714	3,234	3,520	3,386	3,677	4,779	**4002**	24,312
Proven guilty for all unrestricted this year	238 (14%)	370 (11%)	359 (10%)	413 (12%)	261 (.07%)	284 (.06%)	**203 (5.1%)**	2,128 (.09)

a. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2012**: Volume 1. **Page 79.**
b. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2013**. Provisional Statistical Data on Sexual Assault. **Page 77 and 83.**
c. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2014**. Provisional Statistical Data on Sexual Assault. **Page 8 and 23.**
d. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2015**. **Page 8 and 24.**
e. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2016**: Appendix B: Statistical Data on Sexual Assault. **Page 15 and 24.**
f. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2017**: Appendix B: Statistical Data on Sexual Assault. **Page 14 and 25.**
g. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2018**: Appendix B: Statistical Data on Sexual Assault. **Page 14 and 24.**

Longitudinal Data Analysis: Investigation and Adjudication Outcomes for Reports Made Between October 1, 2015 - September 30, 2016 and Resolved by January 2019. Gleaned from the Department of Defense 2018 Annual Report on Sexual Assault in the Military

As of January 2019, DoD received 6,364 reports of sexual assault with an initial report date made between October 1, 2015 and September 30, 2016 (Figure 21), which comprised of 4,778 Unrestricted Reports and 1,586 Restricted Reports. Of the 4,778 Unrestricted Reports that were referred for investigation, 4,523 reports had an investigation opened.14 Of those 4,523 reports with investigations opened, there were 3,809 unique investigations (Figure 21, Point D). At the time of the data pull, MCIOs had completed almost all (99 percent) of investigations opened for cases reported in FY16 (Figure 21, Point F). Of these, 239 were outside of DoD authority or were incidents determined not to be a sexual assault. Of the remaining 3,520 completed investigations, 4,170 resulted in subjects with a possible case disposition, as of January 2019.15 Of the 4,170 possible cases pending disposition from FY16 investigations, 91 percent were completed by the time of this report. (p.44)

Court-Martial: Sexual Assult Charges Preferred from Unrestricted Reports Made Between October 1, 2015 - September 30, 2016 and Resolved by January 2019.[a]

Court-Martial: Sexual Assault Charges Preferred	**579**
Case depositions completed	**572**
Case depositions not completed	**7**
Proceeded to trial	**358 (63%)**
Discharge or Resignation in lieu of trial	**128 (22%)**
Charges dismissed	**85 (15%)**

Proceeded to Trial

Proceeded to trial	**358**
Convicted of any charge	**256 (72%)**
Acquitted of all charges	**102 (28%)**

Proceeded to Trial

Proceeded to trial	**358**
Convicted of any charge	**256 (72%)**
BUT: convictions requiring sex offender registration	**142 (56%)**
Convicted for something other than sex crime	**114 (45%)**
Acquitted of all charges	**102 (28%)**

Proven vs. Unproven for all Case Dispositions

Case depositions completed	**572**
Proven (convicted of any charge)	**256 (45%)**
Unproven (acquitted, discharged, or dismissed)	**315 (55%)**

Total Proven Guilty for All Unrestricted Reports

Evidence Supported Commander Actions	**2,757**
Proven guilty of any charge for all unrestricted	**256 (0.09%)**

a. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **20<u>18</u>**: Appendix B. **Page 49.**

Figure 21. Case Dispositions Reported in FY16 and Completed by January 2019 (p.45)

Case Disposition Category	Count of Case Dispositions	Share of Case Dispositions
Sexual Assault Investigation That Can Be Considered for Possible Action by DoD Commanders	2,757	N/A
Evidence Supported Command Action	1,713	62%
Sexual Assault Charge Substantiated	1,101	
Court-Martial Charge Preferred (Initiated)	579	
Nonjudicial Punishment (Article 15, UCMJ)	247	
Administrative Discharge	95	
Other Adverse Administrative Action	180	
Other Misconduct Charges Substantiated	612	
Court-Martial Charge Preferred (Initiated)	63	
Nonjudicial Punishment (Article 15, UCMJ)	340	
Administrative Discharge	82	
Other Adverse Administrative Action	127	
Commander Action Precluded	972	35%
Victim Declined to Participate in the Military Justice Action	280	
Insufficient Evidence to Prosecute	667	
Statute of Limitations Expired	24	
Victim Died	1	
Unfounded by Command/Legal Review	72	3%

Evidence Supported Command Action

SAPR Report 2004

SAPR FY2018
P.14 of Appendix B
Completed investigations of unrestricted reports for FY18: 4002

P.24 of Appendix B
Court-Martial: Sexual Assault Charges Preferred: 668 case dispositions
BUT: **Case Disposition Completed in FY18: 482** (186 not completed)

A) Proceeded to Trial: 307 (64%) **(that's 42% of disposited preferrals in FY18)**
- Convicted of any charge at trial: 203 (66%)
- Acquitted of all charges: 104 (34%)

B) Discharge or Resignation granted in lieu of Court-Martial: 90 (19%)
C) Court charges dismissed: 85 (18%)

Summary for 482 completed disposition preferrals for FY18
Conviction of any charge: 203 (42%)
Unproven (acquitted, discharge, or dismissed): 279 (58%)

For FY2018, of 4002 completed investigations of unrestricted reports, 203 were proven guilty of any charge in a trial (.05%)

SAPR FY2017
P.14 of Appendix B
Completed investigations of unrestricted reports for FY17: 4,779

p.25 of Appendix B
Court-Martial: Sexual Assault Charges Preferred: 774 case dispositions
BUT: **Case Disposition Completed in FY17: 663** (111 not completed)

A) Proceeded to Trial: 406 (61%) **(that's 53% of deposited preferrals in FY17)**
- Convicted of any charge at trial: 284 (70%)
- Acquitted of all charges: 122 (30%)

B) Discharge or Resignation granted in lieu of Court-Martial: 152 (23%)
C) Court charges dismissed: 105 (16%)

Summary for 663 completed disposition preferrals for FY17
Conviction of any charge: 284 (43%)
Unproven (acquitted, discharge, or dismissed): 379 (57%)

For FY2017, of 4,779 completed investigations of unrestricted reports, 284 were proven guilty of any charge in a trial (.06%)

SAPR FY2016
P.15 of Appendix B
Completed investigations of unrestricted reports with reportable information for FY16: 3,677

p.24 of Appendix B
Court-Martial: Sexual Assault Charges Preferred: case dispositions
BUT: **Case Disposition Completed in FY16: 619** (172 not completed)

A) Proceeded to Trial: 389 (63%) **(that's % of deposited preferrals in FY16)**
- Convicted of any charge at trial: 261 (67%)
- Acquitted of all charges: 128 (33%)

B) Discharge or Resignation granted in lieu of Court-Martial: 133 (22%)
C) Court charges dismissed: 97 (16%)

Summary for 619 completed disposition preferrals for FY16
Conviction of any charge: 261 (42%)
Unproven (acquitted, discharge, or dismissed): 358 (58%)

For FY2016, of 3,677 completed investigations of unrestricted reports, 261 were proven guilty of any charge in a trial (.07%)

SAPR FY2015
P.8 of Appendix B
Completed investigations of unrestricted reports with reportable information for FY15: 3,686

p.24 of Appendix B
Court-Martial: Sexual Assault Charges Preferred: case dispositions
BUT: **Case Disposition Completed in FY15: 813** (113 not completed)

A) Proceeded to Trial: 543 (67%) **(that's 51% of deposited preferrals in FY15)**
- Convicted of any charge at trial: 413 (76%)
- Acquitted of all charges: 130 (24%)

B) Discharge or Resignation granted in lieu of Court-Martial: 159 (20%)
C) Court charges dismissed: 111 (14%)

Summary for 813 completed disposition preferrals for FY15
Conviction of any charge: 413 (42%)
Unproven (acquitted, discharge, or dismissed): 358 (58%)

For FY2015, of 3,386 completed investigations of unrestricted reports, 413 were proven guilty of any charge in a trial (12%)

SAPR FY2014
P.8 of FY14
Completed investigations of unrestricted reports with reportable information for FY14: 3,520

p. 23 of Provisional Statistical Data on Sexual Assault, FY14

Court-Martial: Sexual Assault Charges Preferred: case dispositions
BUT: **Case Disposition Completed in FY14: 735** (175 not completed)

A) Proceeded to Trial: 496 (67%) **(that's % of deposited preferrals in FY14)**
- Convicted of <u>any charge</u> at trial: 359 (72%)
- Acquitted of all charges: 137 (28%)

B) Discharge or Resignation granted in lieu of Court-Martial: 90 (12%)
C) Court charges dismissed: 149 (20%)

Summary for 735 <u>completed</u> disposition preferrals for FY14
Conviction of any charge: 359 (49%)
Unproven (acquitted, discharge, or dismissed): 376 (51%)

For FY2014, of 3,520 completed investigations of unrestricted reports, 359 were proven guilty of any charge in a trial (10%)

SAPR FY20<u>13</u>
P.77 of full report, FY13
Completed investigations of unrestricted reports with reportable information for FY13: 3,234

p. 83 of the full report
Court-Martial: Sexual Assault Charges Preferred: 838 case dispositions
BUT: **Case Disposition Completed in FY13: 707** (129 not completed)

A) Proceeded to Trial: 484 (68%) **(that's % of deposited preferrals in FY14)**
- Convicted of <u>any charge</u> at trial: 370 (76%)
- Acquitted of all charges: 114 (23%)

B) Discharge or Resignation granted in lieu of Court-Martial: 90 (13%)
C) Court charges dismissed: 133 (19%)

Summary for 707 <u>completed</u> disposition preferrals for FY13
Conviction of any charge: 370 (52%)
Unproven (acquitted, discharge, or dismissed): 337 (48%)

For FY2013, of 3,234 completed investigations of unrestricted reports, 370 were proven guilty of any charge in a trial (11%)

SAPR FY20<u>12</u>
P.79 of full report, FY12
Completed investigations of unrestricted reports with reportable information for FY12: 1,714
(But "completed" is becoming unclear)

p. 84 of full report
Court-Martial: Sexual Assault Charges Preferred: 594 case dispositions
BUT: **Case Disposition Completed in FY12: 460** (134 not completed)

A) Proceeded to Trial: 302 (66%) **(that's % of deposited preferrals in FY12)**
- Convicted of <u>any charge</u> at trial: 238 (79%)

- Acquitted of all charges: 64 (21%)

B) Discharge or Resignation granted in lieu of Court-Martial: 70 (15%)
C) Court charges dismissed: 88 (19%)

Summary for 460 completed disposition preferrals for FY12
Conviction of any charge: 238 (52%)
Unproven (acquitted, discharge, or dismissed): 222 (48%)

For FY2012, of 1,714 completed investigations of unrestricted reports, 238 were proven guilty of any charge in a trial (14%)

SAPR FY2011
p. of the full report
Court-Martial: Sexual Assault Charges Preferred: case dispositions
BUT: **Case Disposition Completed in FY11:** (not completed)

A) Proceeded to Trial: (%) **(that's % of deposited preferrals in FY11)**
- Convicted of any charge at trial: (%)
- Acquitted of all charges: (%)

B) Discharge or Resignation granted in lieu of Court-Martial: (%)
C) Court charges dismissed: (%)

Summary for completed disposition preferrals for FY11
Conviction of any charge: (%)
Unproven (acquitted, discharge, or dismissed): (%)

(page 10)
Total # of completed investigations = 1232
Total # of investigations with more than one victims, subject or both = 196
Total # of SUBJECTS in the completed investigations = 1,362

Total # of Victims = 1,297

Disposition of Alleged Offenders in Completed Investigations (p. 2)
Total # of Offenders = 1,362.
Total # of Punitive Actions = 342
    Total # of Court-Martial = 113
    Total # of Nonjudicial Punishment = 132
    Total # of Administrative Actions and discharges = 97
Still being process for Final Action = 340 **(this is not counted in the 1,362 total)**
Civilian Court action / foreign authority = 51
Un-identified offender, punitive action not taken 278
Unsubstantiated/Unfounded/Insufficient Evidence = 351 (/1362 = 26%)
Grand Total = 1,372

Total # of service member subjects = 1011

Total # of service member victims = 989
Total # of non-service member victims = 308

Final Dispositions for the Subject
Total # of un-identified subjects 278 (/1362 =

SAPRR Report 2005

(page)
Total # of completed investigations = 1,386
Total # of investigations with more than one victims, subject or both = 123
Total # of SUBJECTS in the completed investigations =

Total # of Victims =

Disposition of Alleged Offenders in Completed Investigations (p.)
Total # of Offenders =.
Total # of Punitive Actions = 274
    Total # of Court-Martial = 79
    Total # of Nonjudicial Punishment = 91
    Total # of Administrative Actions and discharges = 104
Still being process for Final Action = **(this is not counted in the total)**
Civilian Court action / foreign authority = 44
Un-identified offender, punitive action not taken 163
Unsubstantiated/Unfounded/Insufficient Evidence = 641 (/1 = %)
Grand Total =

Total # of service member subjects =

Total # of service member victims =
Total # of non-service member victims =

Final Dispositions for the Subject
Total # of un-identified subjects (/ =

Provisional Report to the President of the United States on SAPR - 2014

What It Captures

Reports of Sexual Assault

- The Department uses the term "sexual assault" to refer to a range of crimes, including rape, sexual assault, nonconsensual sodomy, aggravated sexual contact, abusive sexual contact, and attempts to commit these offenses, as defined by the UCMJ. When a report is listed under a crime category in this section, it means the crime was the most serious of the infractions alleged by the victim or investigated by investigators. It does not necessarily reflect the final findings of the investigators or the crime(s) addressed by court-martial charges or some other form of disciplinary action against a subject.
- Pursuant to reporting requirements levied by Congress, DoD sexual assault data capture the Unrestricted and Restricted Reports of sexual assault made to the Department during a Fiscal Year (FY) that involves a military subject and/or a military victim.
- In the context of the DoD statistics that follow, an Unrestricted Report of sexual assault is an allegation by one victim against one or more suspects (referred to in the Department as "subjects of investigation" or "subjects") that will be referred for investigation to a Military Criminal Investigation Organization (MCIO; called CID, NCIS, or AFOSI for Army, Navy/Marine Corps, and Air Force, respectively). The number of Unrestricted Reports is based on data entered into the Defense Sexual Assault Incident Database (DSAID) by Sexual Assault Response Coordinators (SARCs). These data are supported by additional information about the incident "pushed" into DSAID from MCIO information systems.
- Data on Restricted Reports are limited, because these are reports of sexual assault made to specified parties within the Department (e.g., SARC, SAPR VA, or healthcare provider) that allow the report to remain confidential, while also enabling the victim to seek care and services. Given the victim's desire for confidentiality, these reports are not investigated and victims are not required to provide many details about these sexual assaults. As a result, the SARC only records very limited data about the victim and the offense in DSAID. Subject identities are not requested or maintained by the Department for Restricted Reports entered into DSAID.
- The Department's sexual assault reporting statistics include data about sexual contact crimes by adults against adults, as defined in Articles 120 and 125 of the UCMJ and Article 80, and attempts to commit these offenses. These data do not include sexual assaults between spouses or intimate partners that fall under the purview of DoD Family Advocacy Program (FAP), nor do these data include sexual harassment which falls under the purview of EO. While most victims and subjects in the following data are aged 18 or older, DoD statistics also capture some victims and subjects aged 16 and 17. Service members who are approved for early enlistment prior to age 18 are included in this category. Since the age of consent under the UCMJ is 16 years, military and civilian victims aged 16 and older are included if they do not fall under FAP's purview.
- The number of sexual assaults reported to DoD authorities in a given fiscal year *does not* necessarily reflect the number of sexual assaults that occurred in that fiscal year.
- Civilian research indicates victims only report a small fraction of sexual
- assaults to law enforcement. For example, of the 1.1 million U.S. civilian women estimated to have experienced nonconsensual vaginal, oral, or anal penetration in 2005, only about 173,800 (16 percent) said they reported the matter to police. For the estimated 301,000 U.S. civilian college-aged women who experienced nonconsensual vaginal, oral, or anal penetration, only about 34,615 (11.5 percent) indicated they reported it to the police.1 The

definition of sexual assault used in this college sample refers to penetrating crimes only. Consequently, it captures fewer crimes than DoD's definition of sexual assault, which encompasses both penetrating and contact (non-penetrating) sexual offenses as well as attempts to commit these offenses.

- This civilian reporting behavior is mirrored in the U.S. Armed Forces. Over the past eight years, the Department estimates that fewer than 15 percent of military sexual assault victims report the matter to a military authority. However, in FY 2014 the Department estimates that over 20 percent of Service members made a report of sexual assault for an incident that occurred during military service. (pp.1-2)

- There are many cases each year when disciplinary action is not possible due to legal issues or evidentiary problems with a case. For instance, when the investigation fails to show sufficient evidence of an offense to prosecute or when the victim declines to participate in the justice process, a commander may be precluded from taking disciplinary action against a subject.
- In the data that follow, when more than one disposition action is involved (e.g., when nonjudicial punishment is followed by an administrative discharge), the subject disposition is only reported once per subject. Dispositions are reported for the most serious disciplinary action taken, which in descending order is: preferral of court-martial charges, nonjudicial punishment, administrative discharge, and other adverse administrative action.
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Who It Describes

- Unrestricted and Restricted Reports capture sexual assaults committed by and against Service members. However, there are instances in which people outside of the U.S. Armed Forces commit sexual assault against a Service member or can be sexually assaulted by a Service member. Information describing these victims and subjects is also included in the following statistics.
- Prior to FY 2014, an Unrestricted Report of sexual assault included one or more victims, one or more subjects, and one or more crimes. With the advent of the Defense Sexual Assault Incident Database (DSAID)2, the Department has greater visibility over victim reporting. **Therefore, starting in the current fiscal year, one Unrestricted Report includes only *one* victim, but could still include multiple subjects**.
- Restricted Reports, by policy, have always involved one victim per reported incident. (pp.3-4)

- Reports made for sexual assaults that occurred prior to a Service member's enlistment or commissioning are also received by the Department. When a report of this nature occurs, the Department provides care and services to the victim, but may not be able to punish the offender if he or she is not subject to military law. Department authorities may assist the victim in contacting the appropriate civilian or foreign law enforcement agency.
- The definition of "sexual assault" in the UCMJ has changed several times over the last several years: For incidents that occurred prior to the changes made to the UCMJ on October 1, 2007, the term "sexual assault" referred to the crimes of rape, nonconsensual sodomy, indecent assault, and attempts to commit these acts. For incidents that occurred between October 1, 2007 and June 27, 2012, the term "sexual assault" referred to the crimes of rape, aggravated sexual assault, aggravated sexual contact, abusive sexual contact, wrongful sexual contact, nonconsensual sodomy, and attempts to commit these acts. For incidents that occur on or after June 28, 2012, the term "sexual assault" refers to

the crimes of rape, sexual assault, aggravated sexual contact, abusive sexual contact, nonconsensual sodomy, and attempts to commit these acts. (p.5)

In FY 2014, the Military Services received a total of 5,983 reports of sexual assault involving Service members as either victims or subjects (Exhibit 1, Point A, and Exhibit 2), which represents an 8 percent increase from the reports made in FY 2013. Although many of these reports may be about incidents that occurred in FY 2014, some incidents may have occurred in prior years. Of the 5,983 reports, 513 (or approximately 9 percent) were made for incidents that occurred before the victim entered into military service.

- The Military Services received 4,501 Unrestricted Reports involving Service members as either victims or subjects (Exhibit 1**,** Point B and Exhibit 2), a 7 percent increase from FY 2013. Of the 4,501 Unrestricted Reports, 125 (3 percent) were made for incidents that occurred before the victim entered military service.
- The Military Services initially received 1,824 Restricted Reports involving Service members as either victims or subjects, a 22 percent increase from FY 2013. Three hundred and forty-two (342; 19 percent) of the initial Restricted Reports later converted to Unrestricted Reports. These 342 converted Restricted Reports are now counted with the Unrestricted Reports. There were 1,482 reports remaining restricted at the end of FY 2014 (Exhibit 1, Point C and Exhibit 2). Of the 1,482 reports remaining Restricted, 388 (26 percent) were made for incidents that occurred before the victim entered military service. Per the victim's request, the reports remaining restricted were confidential and were not investigated. The identities of the subjects were not officially recorded with Restricted Reports.
- As stated above, the accounting method for Unrestricted Reporting changed for the first time this year with the advent of DSAID. Therefore, each Unrestricted Report corresponds to one victim. The Department has always reported the number of victims in Unrestricted Reports, but until the advent of DSAID, it had no way of independently collecting this information without the MCIOs' assistance. DSAID now provides the Department with data directly entered by the SARC. Exhibit 2 presents the revised number of Unrestricted Reports from FY 2007 to FY 2014. Exhibit 3 compares the past method of capturing Unrestricted Reports (case-driven accounting) to the DSAID method (victim- driven accounting). (p.9)

Of the 5,983 reports received by the Department, with each report representing one victim, there were a total of 5,121 Service member victims of sexual assault. In FY 2014, 3,357 Service members made an Unrestricted Report and 321 Service members initially made a Restricted Report, but later converted to an Unrestricted Report, for a total of 3,678 Unrestricted Reports by Service members. One thousand four hundred and forty-three (1,443) Service members made and maintained Restricted Reports. Research shows that reporting the crime is the primary link to getting most victims medical treatment and other forms of assistance.3 The Department's SAPR policy encourages increased reporting of sexual assault, works to improve response capabilities for victims, and works with and encourages victims to willingly participate in the military justice process. This year, there was an 8 percent increase in reporting of sexual assault involving military members as victims and/or subjects over FY 2013. Based on prior, past-year prevalence rates of sexual assault and other factors, the Department attributes this increase in reporting to more victims coming forward to report a crime, and not due to an overall increase in crime.4 In fact, FY 2014 results of the RAND Military Workplace Study indicate that past-year prevalence of sexual assault decreased for women and stayed about the same for men, as compared with FY 2012 rates. Exhibit 4 demonstrates the increase in the number of Service member victims making reports of sexual

assault from Calendar Year (CY) 2004 to FY 2014. The reports were for incidents occurring while in military service. (p.11)

Notes:
1. This graph depicts the estimated number of Service members who experienced USC in the past year (based on the past-year prevalence rates from the WGRA form administered by RAND), versus the number of Service member victims in actual reports of sexual assault made to the DoD in the years indicated. Note that although 5,121 Service member victims made sexual assault reports in FY 2014, 513 of them made a report for events that occurred prior to their entry into military service. This leaves 4,608 making a report for an incident that occurred during military service.
2. The 2,289 Service member victims in Unrestricted and Restricted Reports of sexual assault to DoD authorities in CY 2006 accounted for approximately 7 percent of the estimated number of Service members who may have experienced unwanted sexual contact (~34,200) that year, as calculated using data from the 2006 WGRA.
3. The 2,532 Service member victims in Unrestricted and Restricted Reports of sexual assault to DoD authorities in FY 2010 accounted for approximately 13 percent of the estimated number of Service members who may have experienced unwanted sexual contact (~19,300) that year, as calculated using data from the 2010 WGRA.
4. The 2,828 Service member victims in Unrestricted and Restricted Reports of sexual assault to DoD authorities in FY 2012 accounted for approximately 11 percent of the estimated number of Service members who may have experienced unwanted sexual contact (~26,000) that year, as calculated using data from the 2012 WGRA.
5. The 4,608 Service member victims in Unrestricted and Restricted Reports of sexual assault to DoD authorities in FY 2014 accounted for approximately 24 percent of the estimated number of Service members who may have experienced unwanted sexual contact (~19,000) that year, as calculated using data from the WGRA form, administered by RAND for the first time. (p.12)

1. Exhibit 6 shows the rates of victim reporting by Military Service during the past eight FYs. Victim reporting rates are calculated using the number of Service member victims in Unrestricted and Restricted Reports and active duty Military Service end strength for each year on record with DMDC. (p.13)

FY 2014 UNRESTRICTED REPORTS OF SEXUAL ASSAULT
Data from Unrestricted Reports are collected and reported to the Department by SARCs and MCIOs. In FY 2014, there were 4,501 Unrestricted Reports of sexual assault involving Service members as either the subject or victim of a sexual assault (Exhibit 1, Point B); 3,678 (82 percent) of the 4,501 Unrestricted Reports involved Service members as victims. Each year, the majority of sexual assault reports received by MCIOs involve the victimization of Service members by other Service members. (p.14)

In the 4,501 Unrestricted Reports made to the Department in FY 2014, the majority of offenses alleged were in three categories: rape; aggravated sexual assault/sexual assault; and abusive sexual contact. MCIOs categorize Unrestricted Reports by the most serious offense *alleged* in the report, which may not ultimately be the same offense for which evidence supports a misconduct charge, if any. (pp.14-15)

Investigations of Unrestricted Reports
According to DoD policy, all Unrestricted Reports must be referred for investigation by an MCIO. However, reports received for incidents prior to military service usually cannot be

investigated by MCIOs when the alleged offender is not subject to military law. In FY 2014, MCIOs initiated 3,586 sexual assault investigations (Exhibit 1, Point D). The length of an investigation depends on a number of factors, including:

- The offense alleged;
- The location and availability of the victim, subject, and witnesses;
- The amount and kind of physical evidence gathered during the investigation; and
- The length of time required for crime laboratory analysis of evidence.

Depending on these and other factors, investigation length may range from a few months to over a year. For example, the average length of a sexual assault investigation in FY 2014 was 4.7 months. Consequently, sexual assault investigations and their outcomes can span multiple reporting periods. Of the 3,818 sexual assault investigations completed during FY 2014 (Exhibit 1, Point F), 2,271 were opened in FY 2014 and 1,547 were opened in years prior to FY 2014.
• The outcomes of 1,315 ongoing sexual assault investigations that were opened in FY 2014 but not completed by September 30, 2014, along with the outcomes of pre-FY 2014 investigations that were not completed by the end of FY 2014, will be documented in future reports (Exhibit 1, Point E).
MCIOs reported that 49 of the 4,353 subjects in investigations completed in FY 2014 had a previous investigation for a sexual assault allegation. (p.15)

The 3,520 subjects from DoD investigations for whom dispositions were reported in FY 2014 included Service members, U.S. civilians, foreign nationals, and subjects that could not be identified (Exhibit 1 and Exhibit 8, Point J). (p.16)

A key difference between the civilian and military legal systems is that in the civilian system, a prosecuting attorney may review the evidence and, if appropriate, file charges against all identified suspects within the attorney's area of legal authority. **However, for the vast majority of cases in the military justice system, commanders are limited to taking legal or disciplinary action against only those Service members who are subject to the UCMJ.** Each year, the Department lacks jurisdiction over several hundred subjects in its sexual assault reports/investigations. In FY 2014, the Department could not consider taking action against 1,101 subjects because the allegations of sexual assault against them were unfounded, because the subjects were outside of the Department's legal authority (for example, they could not be identified, they were civilian or foreign nationals or they had died or deserted), or because the subjects were Service members being prosecuted by a civilian/foreign authority. (p.17)

When at the end of a criminal investigation a legal review of the available evidence indicates the individual accused of sexual assault did not commit the offense, the offense did not occur, or the offense was improperly reported as a sexual assault, the allegations against the subject are considered **to be unfounded**. As a result, no action is taken against the accused.
• Allegations against 551 subjects were deemed unfounded (false or baseless) by a legal review after criminal investigation in FY 2014 (Exhibit 8**,** Point K).
The Department's legal authority extends only to those persons subject to the UCMJ. As a result, **487 subjects of DoD investigations fell outside its authority for disciplinary action:**

- There were 291 subjects who remained unidentified despite a criminal investigation (Exhibit 8**,** Point L).
- The Department could not take action against 184 civilians or foreign nationals because they were not subject to military law (Exhibit 8**,** Point M).
- Twelve subjects died or deserted before disciplinary action could be taken against them (Exhibit 8, Point N).

While a Service member is always under the legal authority of the Department, sometimes a civilian authority or foreign government will exercise its legal authority over a Service member who is suspected of committing a crime within its jurisdiction. This year, a civilian or foreign authority addressed the alleged misconduct of 63 Service member subjects (Exhibit 8**,** Point O). (p.17)

Military Subjects Considered for Disciplinary Action

In FY 2014, **2,419 subjects investigated for sexual assault were Service members under the authority of the Department** (Exhibit 9, Point P, and Table 3). However, legal factors sometimes prevent disciplinary action from being taken against some subjects. For example, **commanders were unable to take disciplinary action against 600 of these military subjects because there was insufficient evidence of an offense to prosecute, the victim declined to participate in the military justice process, or the statute of limitations had expired** (Exhibit 9, Point U and Table 3). (p.18)

In addition, commanders declined to take action against 55 military subjects because, after a review of the facts of the case with a military attorney, they determined the allegations against those subjects were false or baseless (unfounded; Exhibit 9, Point V and Table 3). Since FY 2009, the percentage of Service member subjects for whom command action was precluded or declined has decreased. Exhibit 10 illustrates that DoD authorities were able to hold a larger percentage of Service member subjects appropriately accountable in FY 2014 than in FY 2009.

1,674 This is 72.8% (73%) of 2,419

For 1,764 military subjects, commanders had sufficient evidence and the legal authority to support some form of disciplinary action for a sexual assault offense or other misconduct (Exhibit 9, Point Q and Table 3). When a subject receives more than one disposition, only the most serious disciplinary action is reported (in descending order: preferral of court-martial charges, nonjudicial punishment, administrative discharge, and other adverse administrative action).

The following represents the command actions taken for the 1,380 subjects for whom it was determined a sexual assault offense warranted discipline: 66 percent (910 subjects) had courts-martial charges preferred (initiated) against them, 21 percent (283 subjects) were entered into proceedings for nonjudicial punishment under Article 15 of the UCMJ, and 14 percent (187 subjects) received a discharge or another adverse administrative action (Exhibit 9, Point R and Table 3).

For 384 subjects, evidence supported command action for other misconduct discovered during the sexual assault investigation (such as making a false official statement, adultery, underage drinking, or other crimes under the UCMJ), but not a sexual assault charge (Exhibit 9, Point S and Table 3). Of these 384 military subjects for whom probable cause existed only for a non-sexual assault offense: 11 percent (41 subjects) had court-martial charges preferred against them, 61 percent (235 subjects) were entered into proceedings for nonjudicial punishment, and 28 percent (108 subjects) received some form of adverse administrative action or discharge (Exhibit 9**,** Point T and Table 3).
(pp.19-20)

Military Justice

The following information describes what happens once a military subject's commander finds that there is sufficient evidence to take disciplinary action. Exhibit 11 shows that, from FY 2007 to FY 2014, commanders' preferral of court-martial charges against military subjects for sexual assault offenses increased from 30 percent of subjects in FY 2007 to 66 percent of subjects in FY 2014. During the same period, nonjudicial punishment, other adverse administrative actions, and administrative discharges decreased substantially.

Courts-Martial for a Sexual Assault Offense

As noted previously, of the 1,380 military subjects against whom disciplinary action was initiated for a sexual assault offense, 910 had court-martial charges preferred against them (Exhibit 9, Point R and Table 3). Exhibit 12 illustrates what happened to these subjects after their commanders preferred court- martial charges. The dispositions and the sentences imposed by courts-martial are for those subjects with at least one sexual assault charge adjudicated in FY 2014. Of the 910 subjects who had court-martial charges preferred against them for at least one sexual assault charge in FY 2014, 735 subjects' court-martial outcomes were completed by the end of the FY:

- Court-martial charges against 149 subjects were dismissed. However, commanders used evidence gathered during the sexual assault investigations to take nonjudicial punishment against 41 of the 149 subjects (nonjudicial punishment was initiated but dismissed for six of these subjects, leaving 35 subjects with a nonjudicial punishment imposed). The punishment may have been for any kind of misconduct for which there was evidence. The 35 subjects who received nonjudicial punishment were adjudged five categories of punishment: reductions in rank, fines or forfeitures of pay, restriction, extra duty, and reprimand.
- Ninety subjects were granted a resignation or discharge instead of court-martial.
- Of the 496 subjects whose cases proceeded to trial: 359 subjects (72 percent) were convicted on any charge at court-martial. Most convicted Service members received at least four kinds of punishment: confinement, reduction in rank, fines or forfeitures, and a discharge (enlisted) or dismissal (officers) from service.
    - Initial data indicate that sex offender registration was required for at least 175 military members convicted for a qualifying offense at court-martial.
    - One hundred and thirty-seven subjects (28 percent) were acquitted of all charges.

Resignations and discharges in lieu of court-martial are granted by the Department in certain circumstances and may only occur after court-martial charges have been preferred against the accused. For such an action to occur, the accused must initiate the process. Resignation or discharge in lieu of court-martial requests include a statement of understanding of the offense(s) charged and the consequences of administrative separation, an acknowledgement that any separation could possibly have a negative characterization, and an acknowledgement that the accused is guilty of an offense for which a punitive discharge is authorized or a summary of the evidence supporting the guilt of the accused. These statements are not admissible in court-martial should the request ultimately be disapproved. Discharges of enlisted personnel in lieu of court-martial are usually approved at the Special Court-Martial Convening Authority level. Resignations of officers in lieu of court-martial are approved by the Secretary of the Military Department.

In FY 2014, 75 of 85 enlisted members who received a discharge in lieu of court-marital were separated Under Other Than Honorable Conditions (UOTHC), the lowest characterization of discharge possible administratively (information was not available for the other ten subjects). The UOTHC discharge characterization is recorded on the Service member's DD Form 214, Record of Military Service, and significantly limits separation and post-service benefits from the Department and DVA. Military Service policies, codified in the FY 2013 NDAA, direct that those Service members who are convicted of a sexual assault, but who do not receive a punitive discharge at court- martial, should be processed for administrative discharge. This year, the Service documented that 47 convicted subjects that did not receive a punitive discharge or dismissal will be processed for administrative separation from military service. (p.23)

Nonjudicial Punishment

Nonjudicial punishment is administered in accordance with Article 15 of the UCMJ and empowers commanding officers to impose penalties on Service members when there is sufficient evidence of a minor offense under the UCMJ. Nonjudicial punishment allows commanders to address some types of sexual assault and other misconduct by Service members that may not warrant prosecution in a military or civilian court. With nonjudicial punishment a commander can take a variety of corrective actions, including demotions, fines/forfeitures, and restrictions on liberty. Nonjudicial punishment may support a rationale for discharging military subjects with a less than an honorable discharge. The Service member may demand trial by court-martial instead of accepting nonjudicial punishment by the commander.

Of the 1,380 military subjects who received disciplinary action on a sexual assault offense, 283 received nonjudicial punishment (Exhibit 9**,** Point R and Table 3).

Exhibit 13 displays the outcomes of nonjudicial punishment actions taken against subjects on a sexual assault charge in FY 2014. Of the 258 subjects whose
nonjudicial punishments were completed in FY 2014, 90 percent of subjects were found guilty by the commander and received punishment. Nearly all of the administered nonjudicial punishments were for a contact (non-penetrating) sex offense. Most subjects who received nonjudicial punishment received at least three kinds of punishment: reduction in rank, a fine or forfeiture of pay, and extra duty. Available Military Service data indicated that for 59 subjects (25 percent of those administered nonjudicial punishment) the nonjudicial punishment served as grounds for a subsequent administrative discharge. Characterizations of these discharges were as follows:

(p.24)

In FY 2014, commanders took adverse administrative actions against 102 subjects investigated for a sexual assault offense (Exhibit 9, Point R and Table 3). Adverse administrative actions are typically used when available evidence does not support more serious disciplinary action. Adverse administrative actions can have a serious impact on one's military career, have no equivalent form of punishment in the civilian sector, and may consist of Letters of Reprimand, Letters of Admonishment, and Letters of Counseling. These actions may also include but are not limited to denial of re- enlistment, the cancellation of a promotion, and the cancellation of new or special duty orders. Cadets and midshipmen are subject to an administrative disciplinary system at Military Service Academies. These systems address misconduct that can ultimately be grounds for disenrollment from the Academy and, when appropriate, a requirement to reimburse the government for the cost of education.

Probable Cause Only for a Non-Sexual Assault Offense

The sexual assault investigations conducted by MCIOs sometimes do not find sufficient evidence to support disciplinary action against the subject on a sexual assault charge, but may uncover other forms of chargeable misconduct. When this occurs, the Department seeks to hold those

Service members who have committed other misconduct appropriately accountable based on the available evidence. In FY 2014, commanders took action against 384 subjects who were originally investigated for sexual assault allegations, but for whom evidence only supported action on non-sexual assault misconduct, such as making a false official statement, adultery, assault, or other crimes (Exhibit 9; Exhibit 14, Point S; and Table 3). (p.26)

Unfounded Allegations of Sexual Assault
The goals of a criminal investigation are to determine who has been victimized, what offenses have been committed, and who may be held appropriately accountable. When the allegations in an Unrestricted Report are investigated, one possible outcome is that the evidence discovered by the investigation demonstrates that the accused person did not commit the offense. Another possible outcome is that evidence shows that a crime did not occur. When either of these situations occurs, **the allegations are determined to be unfounded, meaning false or baseless**
Report to POTUS on SAPR, 2014, **p. 29** (Exhibit 8, Point K, and Exhibit 9, Point V)
https://www.sapr.mil/public/docs/reports/FY14_POTUS/FY14_DoD_Report_to_POTUS_Appendix_A.pdf

Notes:
1. In FY 2009, 331 (13%) of the 2,584 subjects in reported dispositions had unfounded allegations.
2. In FY 2010, 371 (14%) of the 2,604 subjects in reported dispositions had unfounded allegations.
3. In FY 2011, 396 (17%) of the 2,353 subjects in reported dispositions had unfounded allegations.
4. In FY 2012, 444 (17%) of the 2,661 subjects in reported dispositions had unfounded allegations.
5. In FY 2013, 495 (15%) of the 3,234 subjects in reported dispositions had unfounded allegations.
6. In FY 2014, 606 (17%) of the 3,520 subjects in reported dispositions had unfounded allegations.
7. Numbers in chart do not sum to total due to rounding.

Chart on page 23 is very important.

CMs=910

Went to trial = 496 subject (67%)

Before trial occurred: Discharge or Resignation = 90 subjects (12%)

Before trial occurred: Charges dismissed = 149 subjects (20%)

Convicted of any charge at trial = 359 subjects (72%)

Acquitted of all charges = 137 subjects (28%)
Of the 910, 175 subjects were still pending at the end of 2014.
Of the 735 subjects whose CMs were completed in 2014,
496 (67%) went to trial
90 (12%) were granted discharge or resigned in lieu of court-martial
149 (20%) had charges dismissed.
147 (28%) were acquitted of all charges

Unproven.